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11 ELON MUSK and TESLA, INC.

12 UNITED STATES DISTRICT COURT
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14 NORTHERN DISTRICT OF CALIFORNIA
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16 SAN FRANCISCO DIVISION
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AARON GREENSPAN,

Plaintiff,

v.

OMAR QAZI, SMICK ENTERPRISES,
INC., ELON MUSK, and TESLA, INC.
Defendants.

Case No. 3:20-cv-03426-JD

**DEFENDANT ELON MUSK AND
TESLA, INC.'S MOTION TO SET
BRIEFING SCHEDULE AND
EXTEND PAGE LIMITS PURSUANT
TO LOCAL RULES 6-3 AND 7-11**

Judge: Hon. James Donato

Date Filed: May 20, 2020

Pursuant to Civil Local Rules 6-3 and 7-11 and Item No. 18 in the Court’s Standing Order for Civil Cases before Judge James Donato (“Standing Order”), Defendants Elon Musk and Tesla, Inc. (“Tesla,” and together “Tesla Defendants”), by through their respective attorneys, hereby move for an order (a) consolidating and extending any applicable deadline to respond to the Complaint, (b) setting a briefing schedule for their anticipated joint motion to dismiss, and (c) extending the page limits for such briefing beyond the limits set in Item No. 18 of the Standing Order.

The Tesla Defendants’ motion is based upon the following facts and circumstances, as well as the concurrently filed Declaration of Candace Jackman (“Jackman Decl.”):

1. On May 20, 2020, Plaintiff Aaron Greenspan (“Plaintiff”) filed his Complaint (Dkt. 1), which spans 62 pages, 222 paragraphs, and includes roughly 200 pages of exhibits. The Tesla Defendants deny all of the material allegations against them in the Complaint. (Jackman Decl. ¶ 2.)

2. There is a present disagreement about the adequacy of service of process. In particular, the Tesla Defendants dispute the sufficiency of the purported service to Tesla on June 12, 2020 (Dkt. 12) and the waivers of service purportedly sent to Tesla and/or Mr. Musk on or about May 21, 2020 (as alleged in Dkt. 14), and reserve rights as to the sufficiency of the purported service as to Mr. Musk made on June 23, 2020. However, the Tesla Defendants are willing to waive service, and have offered to do so, as set forth below. (Jackman Decl. ¶ 3.)

3. Due to the Parties’ disagreement over the sufficiency of service, there presently is ambiguity about when (and even whether) the Tesla Defendants must respond to the Complaint. In addition, when they respond, the Tesla Defendants believe it would be more efficient for them to file a single, consolidated motion to dismiss Plaintiff’s Complaint, rather than to file such motions individually. To do so efficiently, the Tesla Defendants’ joint brief would need to modestly exceed the page limits set by the Standing Order. (Jackman Decl. ¶ 4.)

4. The Tesla Defendants attempted to reach an agreement with Plaintiff on these issues. *See* Civ. L.R. 6-3(a)(2), 7-11(a). In particular, on June 30, 2020, the Tesla Defendants sent an email to Plaintiff offering to waive service, effective on May 21, 2020, and proposing to enter into a stipulation (1) setting a single deadline for the Tesla Defendants to respond to the Complaint by July 20, 2020 (60 days after Plaintiff purports to have requested a waiver of service), and (2) extending

the page limits for briefing on the Tesla Defendants' motion to dismiss, to 25 pages for the Tesla Defendants' motion, 25 pages for Plaintiff's opposition, and 15 pages for the Tesla Defendants' reply. Plaintiff rejected the Tesla Defendants' proposal on the same day. (Jackman Decl. ¶¶ 5-6 & Exs. 1 & 2.)

5. While Tesla had hoped to present a joint request and stipulation to the Court, Plaintiff was unwilling. The Tesla Defendants therefore request that the Court (1) set a deadline of July 20, 2020 for them to respond to the Complaint, (2) modestly extend other deadlines for briefing on the Tesla Defendants' anticipated motion to dismiss, as set forth below, and (3) extend page limits for such briefing as set forth in the Tesla Defendants' proposal to Plaintiff. The Tesla Defendants submit that their requested relief would enhance judicial and party efficiency, allow for an orderly presentation of issues, and avoid the substantial harm associated with the ambiguity as to current deadlines, as well as the potential need to rush the preparation of the Tesla Defendants' response to Plaintiff's voluminous Complaint. (Jackman Decl. ¶ 4.)

Accordingly, pursuant to Rules 6-3 and 7-11, the Tesla Defendants respectfully request that the Court enter an order that:

1. The Tesla Defendants shall be deemed to have waived service of process;
2. The Tesla Defendants shall respond to the Complaint on or before July 20, 2020, with Plaintiff's opposition due 21 days thereafter, and the Tesla Defendants' reply due 14 days thereafter; and
3. The page limits for briefing on the Tesla Defendants' anticipated motion to dismiss shall be extended to 25 pages for the Tesla Defendants' opening brief, 25 pages for Plaintiff's opposition, and 15 pages for the Tesla Defendants' reply.

Dated: July 1, 2020

Respectfully submitted,

TESLA, INC.

By: /s/ Candace Jackman
Candace A. Jackman

Attorney for Defendants
Tesla, Inc. and Elon Musk

ATTESTATION PURSUANT TO GENERAL ORDER 45

Pursuant to General Order 45, I attest that concurrence in the filing of the document has been obtained from each of the other signatories, or from the single signatory (in the case, e.g., of a declaration) which shall serve in lieu of their signature(s) on the document.

Dated: July 1, 2020

By: /s/ Lindsey Adams-Hess
Lindsey Adams-Hess